IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1560 OF 2006

IN

WRIT PETITION NO. 8665 OF 2005

Cummins Diesel Sales and Service Ltd. and anr. ....Applicants

Versus

Inspector of Legal Meteorology and ors. ...Respondents

Mr. D.B. Shroff, Senior Advocate, with Mr. G. Joshi, instructed by M/s. Mulla & Mulla & Cragie Blunt and Caroe for the applicants.
Mr. D.A. Dube for respondent Nos. 1 to 3.
Mr. S.R. Nargolkar, Assistant Government Pleader, for respondent No.4.

CORAM: **H.S. BEDI, C.J.,** &
V.M. KANADE, J.

DATE: **OCTOBER 09, 2006**.

P.C.

The writ petition stands admitted by an order dated 24th April, 2006 and *status quo* as on that date has been ordered, after hearing the applicants' counsel as well as the respondents. By this application, it has been prayed that pending the hearing and final disposal of the writ petition, the goods that have been seized from the applicants-writ petitioners be released on such terms and conditions as are appropriate.

2. An affidavit-in-reply has been filed by Shri D.G. Parate, Deputy Controller of Legal Meteorology, Pune, and in paragraph 2 thereof it has been admitted that the Act empowered only seizure and retention of samples. In paragraph 14 it has been pleaded that the goods had been seized as they were not stamped with the maximum retail price and that the goods were not meant for sale by retail. The learned counsel for the applicants has argued that in the light of the questions raised in the affidavit-in-reply, it was apparent that only samples could be retained whereas the bulk of the goods seized were liable to be released and that in any case the petitioners were even now willing to comply with Rule 34 of the Packaged Commodities Rules. We find from the record that a very large quantity of various kinds of items have been seized, and keeping them under detention would help nobody. The applicants have also given an undertaking that they would comply with the provisions of Rule 34 of the Packaged Commodities Rules before the goods are released.

3. We accordingly allow this application and direct that the respondents would be at liberty to retain a sample of each item which has been seized. The applicants should also furnish a bond for the

value of the goods before their release. After the formalities as undertaken are complied with, the goods shall be released forthwith. The application is accordingly disposed of.

CHIEF JUSTICE

V.M. KANADE, J.